

**SPECIAL ORDINANCE NO. 23, 2017**

**APPLICATION FOR REZONING PETITION CITY OF TERRE HAUTE**

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Common Address of lots to be rezoned:  
2955 S. 9½ Street, Terre Haute, Indiana 47802

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Rezone From: R-1 Single Family Residence District

Rezone To: C-2 Community Commercial District

Proposed Use: Extension of Auto Repair and Service Business

Name of Owners: S.E.R.C., Inc.

Address of Owners: 3174 W. Florine Drive  
Terre Haute, IN 47802

Phone Number of Owners: c/o Richard J. Shagley II  
812-232-3388

Attorney Representing Owners: Richard J. Shagley II

Address of Attorney: Wright, Shagley & Lowery, P.C.  
PO Box 9849, Terre Haute, IN 47808

For Information Contact: ☐ Owner ☒ Attorney

Council Sponsor: Amy Auler

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**COPY OF A SITE-PLAN MUST ACCOMPANY THIS APPLICATION**

FILED

MAY 05 2017

**SPECIAL ORDINANCE FOR A REZONING  
SPECIAL ORDINANCE NO. 23, 2017**

**CITY CLERK**

An Ordinance Amending Chapter 10, Article 2 of the Municipal Code designated as "Comprehensive Zoning Ordinance for Terre Haute Indiana."

SECTION I. BE IT ORDIANED BY THE COMMON COUNCIL of the City of Terre Haute, Vigo County, State of Indiana, that Chapter 10, Article 2 of the City Code of Terre Haute, designated as the "Comprehensive Zoning Ordinance for Terre Haute" and Division 4, Section 10.121 thereof, District Maps, be, and the same is hereby amended to include as follows:

Lot Number Sixty-eight (68) and Lot Number Sixty-nine (69) in "Clairmont" a subdivision of Ten acres in the South West corner of the South West ¼ of Section 34, Township 12 North, Range 9 West described as follows:

Commencing at the South West corner of said ¼ section running East 56 4-7 rods thence West 56 4-7 rods thence South 28 2-7 rods to the beginning. Except the Right of Way of the E. and T.H.R.R. Co. as per recorded plat of the same recorded in Plat Record 10, Page 35 of the Recorder's Office of Vigo County, Ind.

Subject to easements, covenants, restrictions, leases and other matters of record affecting title to the subject real estate.

Commonly known as: 2955 S. 9½ Street, Terre Haute, Indiana 47802.

Be and the same is hereby established as a C-2 Community Commercial District, together with all rights and privileges that may insure to said real estate and the owners thereof by virtue of the law in such cases provided, subject to all limitations and restrictions imposed thereon by deed or otherwise."

SECTION II. WHEREAS, an emergency exists for the immediate taking effect of this Ordinance, the same shall be in full force and effect from and after its passage by the Common Council of Terre Haute, and its approval by the Mayor and publication as required by law.

Presented by Council Member,

  
Amy Aulet, Councilperson

Passed in open Council this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Karrum Nasser, President

ATTEST:

\_\_\_\_\_  
Charles P. Hanley, City Clerk

Presented by me, to the Mayor of the City of Terre Haute, this \_\_\_\_ day of \_\_\_\_\_,  
2017.

\_\_\_\_\_  
Charles P. Hanley, City Clerk

Approved by me, the Mayor of the City of Terre Haute, this \_\_\_\_ day of \_\_\_\_\_,  
2017.

\_\_\_\_\_  
Duke A. Bennett, Mayor

ATTEST:

\_\_\_\_\_  
Charles P. Hanley, City Clerk

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each  
Social Security Number in this document, unless required by law.

  
\_\_\_\_\_  
Richard J. Shagley II

This instrument prepared by Richard J. Shagley II, Attorney-at-Law, WRIGHT,  
SHAGLEY & LOWERY, P.C., 500 Ohio Street, P.O. Box 9849, Terre Haute, Indiana  
47807.

## **PETITION TO REZONE REAL PROPERTY**

TO: THE PRESIDENT AND MEMBERS OF THE COMMON COUNCIL OF THE CITY OF TERRE HAUTE, INDIANA:

And THE PRESIDENT AND MEMBERS OF THE AREA PLAN COMMISSION FOR VIGO COUNTY, INDIANA:

LADIES AND GENTLEMAN:

The undersigned, Jarrod Steiner, Authorized Member of S.E.R.C., Inc., respectfully submits this Petition to rezone the following described real estate in the City of Terre Haute, County of Vigo, Indiana, to wit:

Lot Number Sixty-eight (68) and Lot Number Sixty-nine (69) in "Clairmont" a subdivision of Ten acres in the South West corner of the South West ¼ of Section 34, Township 12 North, Range 9 West described as follows:

Commencing at the South West corner of said ¼ section running East 56 4-7 rods thence West 56 4-7 rods thence South 28 2-7 rods to the beginning. Except the Right of Way of the E. and T.H.R.R. Co. as per recorded plat of the same recorded in Plat Record 10, Page 35 of the Recorder's Office of Vigo County, Ind.

Subject to easements, covenants, restrictions, leases and other matters of record affecting title to the subject real estate.

Commonly known as: 2955 S. 9½ Street, Terre Haute, Indiana 47802.

Your Petitioner is informed and believes that in accordance with Chapter 10, Article 2 of the Municipal Code designated as "Comprehensive Zoning Ordinance for Terre Haute, Indiana," the above-described real estate is now zoned as R-1 Single Family Residence District.

Your Petitioner intends to use this real estate for an extension of BC Heavy Truck & Electric, Inc.'s business. Your Petitioner would request that the real estate described herein shall be zoned as an C-2 Community Commercial District.

Your Petitioner would allege that the C-2 Community Commercial District would not alter the general characteristics of this neighborhood since the neighborhood is in a mixed use neighborhood, and S.E.R.C., Inc. is the owner of several parcels of real estate directly south of 2955 S. 9½ Street, Terre Haute, Indiana 47802.


Your Petitioner would respectfully show the proposed change would not be detrimental to the public welfare or injurious to the property or improvements in the neighborhood.

WHEREFORE, your Petitioner respectfully requests that the Area Plan Commission for Vigo County and the Common Council of the City of Terre Haute, Indiana, favorably consider the passage of a Special Ordinance amending the Comprehensive Zoning Ordinance of the city of Terre Haute, Indiana, being Chapter 10, Article 2 of the Municipal Code designated as "Comprehensive Zoning Ordinance for Terre Haute, Indiana," and declaring the above-described real estate to be part of the an R-3 Multifamily Residential District t of the City of Terre Haute, Indiana, and entitled to the rights and benefits that may accrue to the real estate and the owners thereof by virtue of the new designation subject to all limitations imposed by deed or otherwise.

IN WITNESS WHEREOF, This petition has been duly executed this 5<sup>th</sup> day of May, 2017.

**PETITIONER:**

S.E.R.C., INC.

By:   
Jarrod Steiner, Operations Manager

This instrument prepared by Richard J. Shagley II, Attorney-at-Law, WRIGHT, SHAGLEY & LOWERY, P.C., 500 Ohio Street, P.O. Box 9849, Terre Haute, Indiana 47807.

## SITE PLAN

2955 S. 9 ½ Street, Terre Haute, IN 47802

R-1 to C-2

Proposed Use: 24' x 60' Lean-To Building Addition



DULY ENTERED FOR TAXATION  
Subject to final acceptance for transfer

AUG 05 2015

*Timothy M. Spade*  
VIGO COUNTY AUDITOR

201508044 WD \$18.00  
08/05/2015 02:49:41P 2 PGS  
NANCY S. ALLSUP  
VIGO County Recorder IN  
Recorded as Presented



## WARRANTY DEED

THIS INDENTURE WITNESSETH, THAT Robert Gene Hawkins, surviving spouse of Roxanne B. Hawkins, of Vigo County, State of Indiana, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, CONVEYS AND WARRANTS unto S.E.R.C., Inc., of Vigo County, State of Indiana, the following described real estate located in the County of Vigo, State of Indiana, to-wit:

Lot Number Sixty-eight (68) and Lot Number Sixty-nine (69) in "Clairmont" a subdivision of Ten acres in the South West corner of the South West ¼ of Section 34, Township 12 North, Range 9 West described as follows:

Commencing at the South West corner of said ¼ section running East 56 4-7 rods thence North 28 2-7 rods thence West 56 4-7 rods thence South 28 2-7 rods to the beginning. Except the Right of Way of the E. and T. H. R. R. Co. as per recorded plat of the same recorded in Plat Record 10, Page 36 of the Recorder's Office of Vigo County, Ind.

Subject to easements, covenants, restrictions, leases and other matters of record affecting title to the subject real estate.

Subject to taxes prorated to the date hereof.

The Grantor further warrants and represents that he and Roxanne B. Hawkins, were continuously married from a date prior to the date of said deed until the death of Roxanne B. Hawkins on or about October 22, 2013, as shown in Vigo County Death Record Vol. 117, Page 1142, and that he has gathered and accounted for the assets of her estate, to include life insurance proceeds, and they were not of sufficient size to incur liability for Federal Estate Tax or that such tax due has been paid, and no such tax is due and owing.

IN WITNESS WHEREOF the above referred to Robert Gene Hawkins, surviving spouse of Roxanne B. Hawkins, has hereunto set his hand and seal, this 4<sup>th</sup> day of August, 2015.

*Robert Gene Hawkins* (SEAL)  
Robert Gene Hawkins

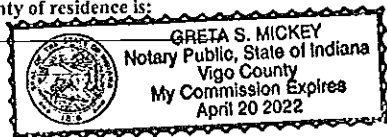
STATE OF Indiana, Vigo COUNTY, SS:

Before me, the undersigned, a Notary Public in and for said county and state, this 4<sup>th</sup> day of August, 2015, personally appeared Robert Gene Hawkins, being first duly sworn, stated that the representations therein contained are true, and acknowledged the execution of the annexed Deed to be his voluntary act and deed.

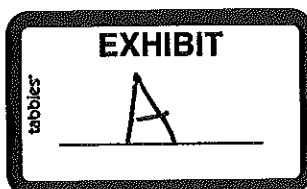
WITNESS my hand and Notarial Seal.

My Commission Expires:

My County of residence is:



*Greta S. Mickey*  
Notary Public  
*Greta S. Mickey*  
Typewritten or printed name of notary



I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law.

B. Guille Cox, Jr.  
B. Guille Cox, Jr.

THIS INSTRUMENT WAS PREPARED BY: B. Guille Cox, Jr., Attorney, Cox, Zwerner, Gambill & Sullivan, LLP, 511 Wabash Avenue, Terre Haute, IN 47807.

GRANTEE'S ADDRESS: 3174 W Florine Drive, Terre Haute, IN 47802

MAIL TAX STATEMENTS TO: same



STATE OF INDIANA        )  
                                  ) SS:  
COUNTY OF VIGO        )

**AFFIDAVIT**

Comes now, Jarrod Steiner, Authorized Member of S.E.R.C., Inc., being duly sworn upon his oath, deposes and says:

1.       That S.E.R.C., Inc. is the owner of record of the following described real estate located in the City of Terre Haute, County of Vigo, State of Indiana, to-wit:

Lot Number Sixty-eight (68) and Lot Number Sixty-nine (69) in "Clairmont" a subdivision of Ten acres in the South West corner of the South West ¼ of Section 34, Township 12 North, Range 9 West described as follows:

Commencing at the South West corner of said ¼ section running East 56 4-7 rods thence West 56 4-7 rods thence South 28 2-7 rods to the beginning. Except the Right of Way of the E. and T.H.R.R. Co. as per recorded plat of the same recorded in Plat Record 10, Page 35 of the Recorder's Office of Vigo County, Ind.

Subject to easements, covenants, restrictions, leases and other matters of record affecting title to the subject real estate.

Commonly known as: 2955 S. 9½ Street, Terre Haute, Indiana 47802.

2.       That a copy of the Deed, recorded in the records of the Recorder's Office of Vigo County, Indiana, is attached hereto and made a part hereof and marked as Exhibit A.

3.       That Affiants make this Affidavit for the sole purpose of affirming that S.E.R.C., Inc. is the owner of record of the above-described real estate for which a proposed change to the zoning map of the City of Terre Haute, Indiana, has been filed and to induce the Common Council of the City of Terre Haute, Indiana, to accept the Petition to Rezone Real Property as filed by S.E.R.C., Inc.

4.       Further, Affiant saith not.

[Signature Page to Follow]

Dated at Terre Haute, Indiana this 5<sup>th</sup> day of May, 2017.

S.E.R.C., INC.

By: Jarrod Steiner  
Jarrod Steiner, Operations Manager

STATE OF INDIANA )  
                                  ) SS:  
COUNTY OF VIGO )

SUBSCRIBED AND SWORN TO before me, a Notary Public in and for said  
County and State, this 5<sup>th</sup> day of May, 2017.

Debra Banta  
Debra BANTA, Notary Public

My Commission expires: 3/19/23

My County of Residence: Vigo

This instrument prepared by Richard J. Shagley II, Attorney at Law, WRIGHT,  
SHAGLEY & LOWERY, P.C., 500 Ohio Street, P.O. Box 9849, Terre Haute, Indiana  
47807.

## Receipt

The following was paid to the City of Terre Haute, Controller's Office.

Date: 5/5/17

Name: SERC Inc

Reason: Rezoning - Notice of Filing \$25.00

Rezoning - Petition \$20.00

\$45.00

Cash: \_\_\_\_\_

Check: # 67317 \$45.00

Credit: \_\_\_\_\_

Total: \$45.00

Received By: L Ellis/gw

TERRE HAUTE, IN  
PAID  
MAY 05 2017  
CONTROLLER